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INTERNATIONAL CITY MANAGERS' ASSOCIATION
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HOW TO CODIFY MUNICIPAL ORDINANCES

What procedure should a municipality follow in the codification and publication of municipal ordinances.

The ordinances of every city should be brought together, made available in usable form, and kept up to date. This is not an easy task because a mere compilation in chronological order or arrangement by subject and publication in full does not meet the test of a good code. To serve their proper function, municipal ordinances should be frequently revised, codified, and published. Such a code keeps the council informed on existing legislation, is a useful tool for administrative officials, and enables police officers, firemen, and other employees to become better acquainted with their enforcement duties. The city attorney and city clerk in many cities can undertake the codification job with their regular staff, but some cities seek the counsel and help of their state municipal league. The work is not difficult or complicated but should be carefully planned, because the several steps briefly reviewed here require considerable time to carry out.

Scope of the Code. It is not customary to include in a code those ordinances which are purely temporary or take care of some specific situation such as street improvements, establishing grade and curb lines, making appropriations, calling elections, relating to specific bond issues, opening and vacating streets, naming or changing the names of streets and parks, and other similar matters. Likewise, special ordinances granting franchises, dedicating streets, or accepting property need not be included, although they might be put in an appendix. Charter or home rule ordinances which require a two-thirds vote may be put in the appendix with proper reference in the chapter.

Except for small cities the city charter probably should be issued as a separate pamphlet. An administrative code containing the details of departmental organization and duties of officials and the position classification and pay ordinances also should be issued separately. Likewise, some cities issue the building, electrical, and plumbing codes in a separate volume; but if included in the code they may be reprinted for ready reference.

The municipal code should contain mainly the general and specific regulatory ordinances which relate directly to the daily life and activities of the citizens. However, it may set forth the boundaries of the city and perhaps contain a section giving the grades for all streets, alleys, and sidewalks. It may also contain the zoning code and sanitary regulations. The steps to be followed may be outlined as follows:

Authorization. The first step is for the council to authorize codification with the intent that the code will be adopted as a single ordinance when completed.

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Existing Ordinances. The procedure in making a list of all ordinances is the same regardless of whether the search begins at the time the city was incorporated or with a previous codification. The person in charge of the clerical work of the codification project should examine the ordinance book in the city clerk's office as the best source, and if this book is not complete it may be necessary to search the council proceedings or the files of the local newspaper in which ordinances were published. A good index to ordinances enacted greatly simplifies the work. It may be desirable to search the resolutions adopted, because some subjects may have been covered by resolution instead of by ordinance.

Tabular Listing. The next step is to type in duplicate a list of the ordinances to be considered, showing in separate columns (1) ordinance number as shown in ordinance book, (2) file number (as assigned by city clerk when matter came before council), (3) date passed, (4) source--ordinance book, council proceedings, or newspaper, (5) volume number in which found, (6) page number on which ordinance begins, (7) subject--summary only, (8) changes (enter note where one ordinance specifically repeals or amends an earlier ordinance), (9) disposition (one of the last steps as indicated below is to enter in this column the disposition of each ordinance in the new code). If the ordinances of the city have not been numbered consecutively from the beginning, it is necessary for purposes of identification in codifying to assign each ordinance a number in chronological sequence. This typed list may be referred to as Form 1. Needless to say, no marks of any kind should be made on the original records of the municipality while they are being used in the search.

Ordinance Data Sheet. In addition to Form 1 a separate sheet should be filled out in duplicate for each ordinance. The forms for these sheets can be mimeographed and show the same information as contained on the tabular sheet (Form 1), but instead of condensing the material the entry under subject, for example, would include the complete title of the ordinance. These sheets, designated Form 2, should show at the top: "Assigned to Chapter No. ...entitled; listing of ordinances relating to....."

Code Arrangement. A tentative list of chapter headings should be prepared at the time the project is begun so that it can be revised or expanded as the work proceeds. A suggested list of chapter headings follows: (1) Governing Body, (2) Administrative Organization (duties of clerk, treasurer, assessor, attorney, policy court, etc.), (3) Personnel (civil service, vacations and sick leave, hours, etc.), (4) Finance (budget, financial reports, purchasing, accounting, audits, etc.), (5) Public Works, (6) Streets, Alleys and Sidewalks, (7) Sewers (sanitary and storm, drains, etc.), (8) Municipal Utilities (water, electric, etc.), (9) Parks and Recreation, (10) Police, (11) Fire (fire departments, fire inspections, fire hazards, etc.), (12) Health (milk, food, restaurants, communicable diseases, etc.), (13) Planning (zoning, platting, master plan, etc.), (14) Building Regulation (structural, plumbing, electrical, signs and billboards), (15) Licensing and Regulation of Trades and Occupations (liquor, beer, peddlers, closing out sales, amusements, dance halls, junk dealers, weights and measures, etc.), (16) Transportation (buses, taxicabs, aeronautics, railroad grade crossings, etc.), (17) Traffic Regulation, (18) Nuisances (smoke, noise, handbills, livestock, weeds, etc.), (19) Offenses against Public Safety, Morals and Public Policy, (20) Penalties, (21) Boundaries, (22) Repeal, Construction and Effect of Ordinances.

The chapter headings selected and the arrangement depend of course on local conditions and the volume of material on a given subject. Some chapter

headings might be combined and others subdivided. In larger cities, for example, an administrative code (incorporating items 1, 2, 3, and 4 above) containing provisions creating the various departments, boards, and commissions and fixing their functions and duties, together with certain procedural matters dealing with personnel, budgets, accounting records, reporting, purchasing, etc., would be issued separately. In a smaller city it may be more satisfactory to include such material in the general code. Thus, health organization could be outlined in the chapter on health.

Classifying the Ordinances. Carbon copies of the tabular list (Form 1) and both copies of the ordinance data sheets (Form 2) should be furnished to the city attorney or city clerk for him to determine which ordinances are general and should be included in the code. The individual ordinance records on Form 2 should be given chapter assignments and filed in manila folders bearing the code chapter conforming to the tentative arrangement. The city attorney will find some general ordinances that are obsolete or have been superseded by later ordinances. Such ordinances can be designated "obsolete" or "superseded by Ordinance No." or other similar designation, and thus eliminate the necessity for copying (Item 8 below). The original copies of Form 2 are returned to the person in charge of typing the ordinances for the code and the carbon copy is retained by the clerk, attorney, or other official in charge of the work.

Special Ordinances. The remaining ordinances are sorted into folders containing general headings such as annexation of territory, bond ordinances, street openings, street vacations, alley openings, alley vacations, street names, street grades, alley grades, sidewalk grades, public utility franchises, etc. The exact grouping may vary from city to city. These headings are noted on Form 2 on the ordinances to which they apply and the sheets are kept in a separate file. Some of these ordinances may be included in the code.

Typing General Ordinances. The next step is the typing of all ordinances tentatively assigned to Chapter 1. Three copies should be typed--two for the attorney and one for the city clerk as a permanent record. The typing should be double-spaced with ample margins to facilitate revision, and a standard style manual should be followed with regard to capitalization and punctuation. As the ordinances assigned to each chapter are typed they are sent to the city attorney who organizes the chapter into its preliminary form. One copy of each ordinance is retained by the attorney for reference purposes, while the other can be used in the revision process.

Numbering System. In preparing the draft of each code chapter the attorney or clerk subdivides it into articles, sections, and subsections with numerical designations to form a decimal number which will be indicative of definite subjects. The chapter number precedes the decimal point and the article, section, and subsection numbers follow the decimal point. For example, an ordinance regulating peddlers may have the classification number 15.24, derived from Chapter 15, Article 2, Section 4. Subsections may be indicated by numerals in parentheses such as 15.24 (1). The decimal system provides a scheme which can be used in filing ordinances in the city clerk's office and also a subject classification for filing all new ordinances after the municipal code has been printed.

Revision Process. All of the material in the original ordinance, such as title, enacting clause, time of taking effect, and so on, can be eliminated. The main body of each ordinance can be broken up with captions

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consisting of two or three words to indicate content. These headings would be printed in italics, bold face, or other type. Where there are several ordinances on the same subject the most suitable provisions should be incorporated in the new code. Obsolete ordinances should be eliminated, and those that are defective because of faulty drafting or other reasons should be drafted new. Ordinances which have been invalidated by subsequent statutes or court decisions can sometimes be made valid by eliminating the objectionable features or by making relatively simple changes.

The attorney should carefully examine the wording of ordinance material to be included in the code, and wherever necessary the meaning should be clarified by rewording. Most ordinances can be considerably shortened and the language improved by rewording. Zoning and other ordinances may need to be redrafted because of frequent amendments, and care should be taken not to violate any provision of state law or city charter requiring special action such as a hearing. The code can be shortened by eliminating the use of separate penalties and incorporating such material either at the end of the code or at the end of each chapter.

Review by Department Heads. When the tentative draft of a code is completed, it should be submitted to the department heads concerned for suggestions as to improvements and new material to be added. For example, the health officer in looking over the tentative draft of the health chapter may discover defects or obsolete sections and also that new local regulations should be adopted on a particular matter. These suggestions should be reviewed by the city manager or other chief municipal official and submitted to the city council for approval.

Department heads should check existing ordinances with model regulations in their fields. Many state leagues of municipalities have issued numerous model ordinances, and a comprehensive list is published annually in THE MUNICIPAL YEAR BOOK. Any model ordinance serves only to suggest to the skilled draftsman desirable provisions of local law, and it must always be adapted to local conditions and situations. Municipal officials also may find very helpful the codes of ordinances issued by other cities (see list of cities near end of this report).

It should be stated here that lengthy ordinances particularly building, plumbing, and electrical codes should be adopted by reference if possible, in order to avoid excessive printing costs and a bulky code. Thirteen states, according to the American Municipal Association, now have statutes providing clear and definite authority for municipal adoption of codes by reference. These states are Alabama, California, Idaho, Illinois, Minnesota, Nebraska, New Hampshire, New Jersey, New Mexico, Oregon, Pennsylvania, Utah, and Washington.

Likewise, a state law or regulation which the city finds it desirable to re-enact as a local ordinance so that fines or violations will accrue to the local treasury also should be adopted by reference. In order that future amendments or revisions may be made, one city uses throughout such special codes the term "Wisconsin statutes", and in the final chapter containing definitions such statutes are defined to be "the statutes of the state of Wisconsin for the year 1941." In this way the city can pass a short ordinance amending this definition to refer to any later edition of the statutes.

Tentative Chapter Drafts. As the preliminary draft of each chapter is completed, six copies should be typed on onion skin paper and carefully

proofread. The original should be retained by the city attorney, one copy filed with the city clerk, one copy kept in the project files, and three copies made available for review by members of the city council or the committee which is supervising the codification. The council can then consider each chapter as completed instead of waiting until the entire draft of the code is completed. After the preliminary draft of each chapter has been tentatively approved, it should be laid aside until all the preliminary drafts of all chapters have been approved, at which time they should be reviewed as a whole by the city attorney and the city clerk to make certain that the chapter arrangement is satisfactory and that there are no gaps. Section and other headings should be checked to make certain that the material is properly arranged as to chapter and section.

The next step is to enter in the column, "Disposition," on Form 1 a notation as to what happened to the sections of each ordinance listed. If included in the new code the section number should be noted and if discarded the reason should be given--obsolete, duplicate, invalid, etc. This will verify the fact that no ordinance has been omitted inadvertently.

Special Ordinances. If special ordinances are to be included in the printed code, these ordinances should be typed under each of the headings agreed upon and submitted for review to the administrative officials concerned.

Code Source List. It is desirable to prepare and type for reference purposes for use by the council when final action is taken on the code, a list containing each section number of the new code and showing beside the number in an adjoining column the source of that section. For example, the source might be the number and date of original enactment; it might be from a previous code; it might be something that has been inserted to supply a deficiency; or it might be a model ordinance prepared by a certain national organization or state league or an ordinance enacted by another city.

Miscellaneous Provisions. At the beginning of the code, after the enacting language, there must be included a statement somewhat as follows: "The general ordinances of the city of _____ are hereby revised and consolidated into the _____ Municipal Code of Ordinances of 19____, as hereinafter following:" Other provisions include (1) a saving clause continuing all vested rights, pending actions, and prosecutions; (2) the repeal of all ordinances of the city inconsistent with the provisions of the new code, especially the numerous general ordinances which were located in the search for existing ordinances, excepting all special ordinances; (3) the procedure for the publication of the code; (4) rules for construction of the ordinances, including definitions; (5) a severability clause; and (6) a statement when the code takes effect, and its title for citation purposes.

Final Draft of Code. After all the preliminary chapters have been finally approved by the attorney and the council committee the code should be re-typed. There should be five copies on bond paper--one for the project file, one for the city attorney, and the original and two carbon copies for the city clerk. The original serves as the official copy to be passed upon by the council. This final draft should be carefully proofread preferably twice by different persons. There is no need to read the code in full at the council meeting especially if final action is deferred for a reasonable length of time. If council rules provide for reading in full the rule may be suspended. It may be desirable for the council to hold hearings on the proposed code at which interested persons may be heard, especially if entirely new ordinances are included.

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Table of Contents and Index. The table of contents should list the chapters and articles and perhaps sections. A good index at the end of the code greatly enhances its usefulness. The key word in most common usage should be selected and the item indexed accordingly. The broad subject heading is better than specific subject headings. For example, the heading "animals" or "livestock" should be used instead of "dogs," "horses," "mules," "cows," etc. If necessary, there should be a cross-reference, such as "Dogs, see Animals." The words "city" and "public" should be avoided--for example, "Plan Commission" instead of "City Plan Commission," and "Deposits" rather than "Public Deposits." All types of municipal licenses should be listed under the heading "Licenses," as well as under proper key words. The preparation of an index is a difficult task and should be done by someone who has been trained in that kind of work, such as the librarian of the public library.

Publishing the Code. When the code has been adopted, it should be published in book or pamphlet form instead of in a newspaper. The code can be referred to by title in the proceedings of the council. Letterpress form is preferable to mimeographing, with the latter method better than no code at all. A loose-leaf binder is preferable to other types of binding. In Wisconsin it has been held that a binder with a locking device which firmly fastens each page complies with statutory requirements. This type of binder permits the insertion of additional material at a later date and makes it possible to amend particular sections by having certain pages reprinted and substituted in the binder for the original pages. The number of the first section on each page can be shown at the top of the page instead of page numbers. This plan assures that the code will always be up to date.

Distribution of Code. A sufficient number of copies should be printed so that one will be available without charge to every interested citizen. Provisions should be made for reprinting sections of wide general interest such as the "Licenses" chapter. A copy of the code should be available for use by the public at the city clerk's office, at the public library, and at the school libraries. Sufficient copies should be available for distribution among the officials of the city and for exchange or sale to other municipalities. Some cities sell the code at a price which includes all subsequent amendments. In any event the city should keep a list of the names and addresses of all people who have been supplied a copy of the code so that revised sheets containing amendments and additions to the code can be mailed out for insertion in the binder.

Summary of Practice Followed in Selected Cities. In preparing a code of ordinances, it is generally desirable for a city to secure copies of some of the better and more recently published codes of other cities as well as copies of model ordinances on subjects which municipal officials desire to cover in their code. Among the cities that have published codes during the past 10 years are: Alexandria, Virginia, 1940; Ames, Iowa, 1943; Berkeley, California, 1939; Cincinnati, Ohio, 1936; Cleveland, Ohio, 1942; Greensboro, North Carolina, 1940; Kansas City, Missouri, 1941; Kingsport, Tennessee, 1939; New Rochelle, New York, 1940; Norfolk, Virginia, 1942; Pasadena, California, 1940; Roanoke, Virginia, 1939; Rockland, Maine, 1947; Saginaw, Michigan, 1938; Salem, Oregon, 1939; Shorewood, Wisconsin, 1937; and Traverse City, Michigan, 1943. These codes generally are available from the city clerk at from \$1 to \$6 each. Brief statements about the codes of four of the above cities follow:

Ames, Iowa (12,555). This city in 1943 published a 326-page volume of ordinances arranged under the following headings: jurisdiction, city council, commissions and boards; city officials, traffic and parking, building regulations, licensed businesses, public utilities, streets and public improvements, utility installations, general misdemeanors, public health, and miscellaneous. Iowa law requires that ordinances must be published either in newspapers of general circulation in the city or in a bound volume; to save the cost of publishing in newspapers the city adopted the policy of revising its ordinances about every ten years and publishing them in book form. In the intervening period amendments are published in a newspaper.

Several copies of the ordinance book were printed in loose-leaf form for use by municipal officials, and when an amendment is passed the new ordinance as amended is typewritten and inserted in the loose-leaf book to keep it up to date. The material for the ordinance book was prepared by the city attorney with the assistance of the city clerk and the city manager. The cost of the legal work was about \$2,000 and the cost of printing 200 paper-covered and 50 clothbound books was \$1,008. Copies are sold at \$1 each.

Traverse City, Michigan (14,455). This city in 1943 published a 104-page volume containing the building, zoning, electrical, plumbing, and land subdivision codes, together with general provisions covering permits, fees, exceptions, appeals, and definitions applying to all of the codes. All other city ordinances were issued in a separate volume entitled The General Code (145pp. \$1.50). For each volume amendments will be printed in a form suitable for ready insertion in the proper place as identified by page numbers and by letters if necessary.

Rockland, Maine (8,899). This city recently published its charter and ordinances in loose-leaf volume form. The revised ordinances were drafted by Edward C. Moran, Jr., former member of Congress and the first chairman of the city council, who also did all the codification work. When the council-manager charter became effective last year the council repealed all ordinances and as new and revised ordinances were prepared by Mr. Moran they were reviewed by the city attorney and the city manager and then adopted by the council. The codified ordinances are arranged by sections and chapters without page numbers so that new ordinances and amendments can easily be inserted in the loose-leaf binder. The total cost of printing 500 copies was \$1,300, and the city is making copies available to officials of other cities at actual cost of \$2.60 a volume.

Saginaw, Michigan (82,794). The council-manager charter of Saginaw which went into effect in 1936 provided for the adoption of an administrative code to divide the administrative service into departments, divisions, and bureaus and further specified that all city ordinances should be revised and compiled. The task was begun by assembling the model ordinances listed in THE MUNICIPAL YEAR BOOK and elsewhere. Existing local ordinances were surveyed and desirable or necessary provisions were marked for retention. Desirable provisions from both sources were then revised as needed and grouped into a tentative outline form and mimeographed. Next came the "combing" process, participated in by department and division heads, research assistants, and the city manager. Legal assistance of the Michigan Municipal League was utilized on a per diem basis.

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Saginaw has but four ordinances, excluding franchises. These are the administrative code; the general code; the building, plumbing, and electrical code; and the zoning code. All future city ordinances will fit into the outline of one of the four codes and will therefore be amendatory in effect. Printed in loose-leaf form, the codes are self-compiling and all amendments can be readily inserted in their proper places.

The administrative code as finally adopted contains approximately 15 pages; the general code 85 pages (\$1.50). To reduce the bulk of the ordinances and make them more understandable, excessive legal terminology was eliminated, provisions adequately covered by state law or rules and regulations were deleted with provisions made for adopting the state laws and codes by reference, and other sections which would be subject to frequent change or which were not considered appropriate for inclusion in the brief codes were omitted. Authority to issue these latter sections in the form of rules and regulations was granted to administrative officers, subject to approval of the city council, this procedure following that used by most state legislatures in delegating authority for code-making.

The self-compiling feature of the looseleaf codes makes unnecessary a revision and compilation of ordinances every ten years as required by the Saginaw charter. It is made possible by the method of sectionalizing and by the loose-leaf binding. Each code is divided into chapters, articles, sections, and subsections in the order named. Article and section designations of a particular provision are combined into a single reference number, the first digit of the section number representing the number of the article--e.g. subsection 702 is the second section of Article 7. Subsection numbers, when used, follow the section number, separated by a decimal--e.g. subsection 3 of section 702 is noted as 702.3. Page numbers are not used in the codes; references and indexes make use of chapter and section numbers appearing in the upper outside corner of each page. Under this arrangement, new provisions, printed and inscribed in the same manner, and revised sections, completely rewritten, will enable amendments to be readily inserted in their proper places in each of the several codes.

Conclusion. A consistent, clear, and comprehensive code of ordinances is an essential tool in effective municipal administration. Such a code cannot be obtained by the simple process of compilation; ordinance revision is a technical task which requires not only a working knowledge of the city charter and general laws of the state, but also of the decisions of the state and federal supreme courts. The reviser should have access to model ordinances and to the codes of other municipalities. If the city attorney and city clerk do not have time or are not equipped to do the work, the city may turn to the state league of municipalities for assistance.

Some of the information in this MIS report has been paraphrased with permission of the League of Wisconsin Municipalities pamphlet entitled "The Codification of Ordinances in Wisconsin Cities and Villages" issued in June, 1942. Considerable information also has been supplied directly by municipal officials. The state leagues of municipalities in South Dakota and Oregon also have published useful guides on the codification of ordinances, and the National Institute of Municipal Law Officers (730 Jackson Place, N.W., Washington 6, D.C.) in 1943 published an excellent report entitled "Codification of Municipal Ordinances" (price \$2). More than 400 suggested or model ordinances on a wide variety of subjects are listed in the MUNICIPAL YEAR BOOK each year.